

NATIONAL NURSES WEEK

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 10, 2001

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in celebrating National Nurses Week. This week is an important reminder of nurses and their continued dedication and concern for their patients every day.

Well trained nurses are the cornerstone of our nation's health system. Currently, hospitals and other health care employers are faced with an emerging nurse shortage. After meeting with several nursing and health care organizations in my district, I believe increased funding of existing nurse education programs and new programs to recruit and retain nurses are desperately needed to provide advanced training and to build the faculty workforce. I am actively working with my colleagues to pursue these goals.

It is important to support the goals and ideas of National Nurses Week, because their impressive level of achievement and accomplishment are a milestone for the nursing profession as a whole. Mr. Speaker, I know my colleagues join me in support and appreciation of these extraordinary individuals.

TRIBUTE TO CHIEF OF POLICE
DENNIS MINNICH

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 10, 2001

Mr. McGOVERN. Mr. Speaker, I rise today to recognize Dennis Minnich, who was recently appointed the new Chief of Police of West Boylston, Massachusetts.

Chief Minnich brings a wealth of knowledge and experience to this important post. He began as a full time Patrolman with the West Boylston Police Department in 1992 and was promoted to Sergeant in 1977 and has also served as Interim Police Chief. Previously, for several years, he was a member of the Police Department of the neighboring town of Boylston. Chief Minnich has expressed a commitment to lead a visible, active police department and to remain fully accessible to the public. He recently stated "I really care about the community—I plan on raising a family here and want it to be a safe town for my kids and all the children of the town to grow up in."

Mr. Speaker, it is my great pleasure to congratulate Chief Minnich on his appointment and for his distinguished law enforcement career. I offer my best wishes and support to him and the members of his department in their service to the citizens of West Boylston.

INTRODUCTION OF THE SMALL
BUSINESS LIABILITY REFORM
ACT OF 2001

HON. ASA HUTCHINSON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 10, 2001

Mr. HUTCHINSON. Mr. Speaker, I am pleased to be joined by my colleagues, the

gentleman from Pennsylvania, Mr. HOLDEN; the gentleman from North Carolina, Mr. BURR; and the gentleman from Virginia, Mr. MORAN in introducing the Small Business Liability Reform Act of 2001.

Members will recall the House's consideration and passage of similar legislation during the last session of Congress. Following legislative hearings in the Fall of 1999, that bill (H.R. 2366, 106th Congress) was the subject of three days of markup in the Judiciary Committee, during which the Committee considered 21 amendments and adopted five. On February 16, 2000, the full House took up H.R. 2366 and adopted three of the four amendments considered before passing the bill on a bipartisan vote of 221-193.

Like its predecessor, Title I of the bill we are introducing today proposes three basic reforms to our civil justice system for defendants with fewer than 25 full time employees—the smallest of America's small businesses. Section 103 of the bill establishes fair standards of evidence and liability for the award of punitive damages, and establishes proportionality in the awarding of punitive damages against America's small businesses. Section 104 establishes a fair share rule for the payment of non-economic awards. This reform in effect abolishes so-called "joint and several liability" for damages for pain and suffering, ensuring that only those defendants who are truly guilty of inflicting such harm will be held financially responsible.

Title II of the bill contains two important reforms to the product liability system and is applicable to all who sell, rent or lease products. First, Sections 204(a) and (b) establish a fault-based standard of liability for non-manufacturer product sellers in product liability cases, while preserving a strict liability standard for breach of the seller's own express warranty and where an otherwise culpable manufacturer is beyond the court's reach. Section 204(c) appropriately protects those who merely rent and lease products from being held vicariously liable for the wrongful conduct of someone else (a customer for example) simply due to product ownership.

Mr. Speaker, the reforms proposed in the Small Business Liability Reform Act are both modest and fair and will improve the administration of civil justice in the United States by reducing needless litigation and the wasteful legal costs associated with it. Most important, the bill will advance the core purposes of our civil justice system: to prevent harm through the deterrence of careless or wrongful conduct; to assign responsibility for harm to the party in the best position to avoid it; and to require those whose careless or wrongful conduct cause harm to pay.

I urge my colleagues on both sides of the aisle to join in supporting this important legislation, the enactment of which is long overdue.

Mr. Speaker, I submit a section-by-section summary of the Small Business Liability Reform Act of 2001 for the RECORD.

The Small Business Liability Reform Act of 2001—Section-by-Section Summary

A bill to offer small businesses and product sellers protection from litigation excesses.

TITLE I: SMALL BUSINESS LAWSUIT ABUSE
PROTECTION

SECTION 101: FINDINGS

This section sets out congressional findings concerning the litigation excesses facing small businesses, and the need for re-

forms to protect small businesses from abusive litigation.

SECTION 102: DEFINITIONS

This section defines various terms used in the bill. A small business is defined as any business or organization with fewer than 25 full time employees. Punitive damages are defined to exclude civil penalties, civil fines, or treble damages assessed or enforced by a government agency under federal or state statute.

SECTION 103: LIMITATION ON PUNITIVE DAMAGES
FOR SMALL BUSINESSES

This section provides that punitive damages may, to the extent permitted by applicable state law, be awarded against a small business only if the claimant establishes by clear and convincing evidence that the defendant acted with a conscious, flagrant indifference to the rights or safety of others, and that the conduct was the proximate cause of the harm that is the subject of the action.

This section also limits the amount of punitive damages that may be awarded against a small business. In any civil action against a small business, punitive damages may not exceed the lesser of three times the amount awarded to the claimant for economic and noneconomic losses, or \$250,000. However, a court is permitted to exceed the punitive damages cap in the event it finds by clear and convincing evidence that the defendant acted with specific intent to cause the type of harm for which the action was brought.

SECTION 104: LIMITATION ON JOINT AND SEVERAL
LIABILITY FOR NONECONOMIC LOSS FOR SMALL
BUSINESSES

This section provides that in any civil action against a small business, each small business defendant will be liable for non-economic loss only in proportion to its responsibility for causing the harm.

SECTION 105: EXCEPTIONS TO LIMITATIONS ON
LIABILITY

This section ensures that the benefits of this legislation are not available to any defendant whose misconduct (1) constitutes a crime of violence or an act of international terrorism; (2) results in certain natural resource damages; (3) involves a sexual offense or a violation of civil rights law; (4) occurs while the defendant is under the influence of an intoxicating alcohol or a drug; (5) is prosecuted under the Federal False Claims Act; or (6) is prosecuted under fraud or false statement laws.

SECTION 106: PREEMPTION AND ELECTION OF
STATE NONAPPLICABILITY

This section provides for uniform rules with regard to small business liability. The bill preempts state laws to the extent that any such laws are inconsistent with the provisions of Title I. However, the bill includes an opt-out provision for the states. A state may opt out of the provisions of this title for actions in state court against a small business in which all parties are citizens of the state. In order to opt out, the state must enact a statute citing the authority in this section and declaring its intention to opt out.

TITLE II: PRODUCT SELLER FAIR TREATMENT
SECTION 201: FINDINGS

This section sets out congressional findings concerning the effect on interstate commerce of damage awards in product liability cases; the present inequities resulting from inconsistent product liability laws within and among the states; and the need for national, uniform federal product liability laws.

SECTION 202: DEFINITIONS

This section defines various terms and phrases used in this title.